

MINUTES

MONTANA SENATE 59th LEGISLATURE - REGULAR SESSION COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN CAROLYN SQUIRES**, on January 26, 2005
at 3:00 P.M., in Room 335 Capitol.

ROLL CALL

Members Present:

Sen. Carolyn Squires, Chairman (D)
Sen. Joe Balyeat (R)
Sen. Vicki Cocchiarella (D)
Sen. Mike Cooney (D)
Sen. Jon Ellingson (D)
Sen. Jeff Essmann (R)
Sen. Steven Gallus (D)
Sen. Rick Laible (R)
Sen. Dave Lewis (R)
Sen. Jim Shockley (R)
Sen. Joseph (Joe) Tropila (D)

Members Excused: None.

Members Absent: None.

Staff Present: Dave Bohyer, Legislative Branch
Claudia Johnson, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: SB 191, 1/24/2005; SB 230,
1/24/2005
Executive Action: SB 206, SB 109, SB 197

HEARING ON SB 191**Opening Statement by Sponsor:**

SEN. DUANE GRIMES (R), SD 39, opened the hearing on **SB 191**, Change name of state auditor to commissioner of financial industry. **SEN. GRIMES** said that Commissioner John Morrison wanted to go forward with this bill to change the name to Commissioner of Financial Industry, because Montanans are confused. He gave several examples of people that have informed him that they had no idea what the State Auditor's office does, and they said that if the name was changed to be consistent with other states around Montana they would know whom to contact.

Proponents' Testimony:

Alicia Pichette, State Auditor's Office, stated her support for the bill, and suggested if the Committee doesn't want to deal with it, to give them the authority for a referendum to be placed on the ballot.

Opponents' Testimony:

Keith Colbo, Executive Director for the Montana Independent Bankers (MIB), stated the MIB doesn't oppose the purpose of the bill, only the name. He is representing small banks statewide, which isn't included with the State Auditors bill, but with the Department of Administration (D of A). He mentioned a bill being drafted by **SEN. STAPLETON** that will move the Banking Division from D of A, and he said it should be left where it is. **Mr. Colbo** has met with **SEN. STAPLETON**, and voiced his opposition to that new draft. He said the name is misleading to the financial industry. He suggested that the Committee members amend the bill to reflect the State Auditor's office's current functions, which is Commissioner of Insurance and Securities. He urged the Committee to not pass SB 191.

Steve Turkiewicz, Montana Bankers Association (MBA), stated that the MBA is in opposition to the bill more in terminology than the concept. He said the name should be Commissioner of Insurance and Securities. He urged the Committee to consider the name he mentioned.

Informational Testimony: None.

Questions from Committee Members and Responses:

SEN. COONEY asked if there would be any concern changing the name as long as it doesn't stay as "Auditor". **SEN. GRIMES** said it is okay to change the name as long as it is clear to the citizens of Montana what the function of the job is. He stated that in discussion with the Auditor's office it was suggested by them that maybe they could have the name changed to Commissioner of Financial Services.

SEN. COONEY asked **Alicia Pichette** if there is any preference which name the Committee should go with. **Ms. Pichette** responded "not really". She said that the State Auditor's Office offered the two names, Financial Industry, and Financial Services to the members of the National Association of Insurance Commissioners. They were informed at this conference that many of the members are called either Insurance Commissioners, or Financial Industry, and some are both. She said these titles are more concise, and specific to the product that is regulated. She informed the Committee that some of the insurance products are variable annuities, or annuities and securities products. She felt the Insurance Securities' name suited them best.

Closing by Sponsor:

SEN. GRIMES closed stating he doesn't understand why the Committee feels there should be a fiscal note on this bill. He commented that the bill would have to go through the next legislature for codes and clean up the language. He said if anyone wants to run for State Auditor in the next election, it will be an open position, and that person wouldn't have to go through the constituency process.

CHAIRWOMAN SQUIRES asked **SEN. GRIMES** and **Mr. Turkiewicz** to get together with the State Auditor's office and come to a consensus on renaming the State Auditor.

HEARING ON SB 230**Opening Statement by Sponsor:**

SEN. JOE BALLYEAT (R), **SD 34**, opened the hearing on **SB 230**, Cross-party candidate endorsement. He distributed written testimony, which he read (see exhibit 1). He informed the Committee that the bill is co-sponsored with **SEN. TOOLE**, and on the House side with **REP. KAUFMANN**, and **REP. SALES**. He stated that this bill will change the Montana election law to allow cross-party candidate endorsement or fusion as it is commonly called. It

allows a candidate to file for office for more than one party, and if the candidate won the primary of both parties, that name will appear on the ballot under more than one party designation. All of the votes for that candidate, regardless of which party designation, would be added together to determine the winner of the election. He notes that he is sponsoring SB 230, because he believes "it is a creative solution to the problems caused by the increasing presence of third parties on Montana's political landscape." He said that "New York is a state that actively allows fusion. Third parties in New York play a positive role in state politics, but third parties in Montana are consigned to nothing more than the role of the spoiler." He said that a Green Party candidate might steal just enough votes away to hand a normally Democrat seat to a Republican, or a Constitution Party candidate might steal enough votes to hand a normally Republican district to a Democrat district. He informed the Committee that as far as he knows this has happened approximately 15 times in the last three Montana elections. He said laws in Montana banning fusion will not stand up to Constitutional litigation. He urged the Committee to give this bill a close look. He said this is a new concept for Montana, and asked the Committee to ask him a lot of questions.

EXHIBIT(sts20a01)

Proponents' Testimony:

Bob Nichol, representing self, read an article that states that major parties do not have the right to form a monopoly on the political process, and the reason why it was voted out in 40 states. He said fusion was voted out in Montana in the 1940's, because the parties were worried about the radical farmers and ranchers that were in the progressive movement. He became interested in fusion while living in New York for 18 years.

{Tape: 1; Side: B}

He said fusion gave third parties leverage with the major parties by getting people involved. **Mr. Nichol** said that fusion is simple, it doesn't cost any money, it is fair, it isn't new, and it's been in Montana for 100 years. This isn't a partisan issue, but an attempt to get more people involved in the elective process.

SEN. KEN TOOLE, SD 41, HELENA, stated his support for SB 230. He stated his concern about people who are not interested in participating in politics. He said the way the system is now, that third party candidates are spoilers. This is a practical, and legitimate way to become involved in politics. He stated

that currently the most a third party candidate can do is ruin the candidate of the next closest major party to them. He hasn't participated in third party efforts in Montana for the above reasons. He has been involved in the Democratic Party, the platform process, the executive board, and chair of the local Lewis and Clark Central Committee. The concept of fusion presents an opportunity for people in the process in a constructive way to work along side the major candidates. He urged the Committee to pass SB 230.

Opponents' Testimony:

Brad Martin, Executive Director of the Montana Democratic Party, stated his opposition to SB 230. He said that this bill is based on a false premise, and creates other consequences that aren't healthy for either party, and our democracy. He addressed the "death of our democracy and death of participation". He said that Montana had one of the highest turn-outs in the nation at the last general election. He said there were lines at the polling places, and this bill will not help shorten those lines or increase the participation of the process in Montana. There are legitimate major parties, and legitimate third parties. He said that voters monopolize the process, not the parties. The voters decide which candidate will win, prevail, and which party will prevail of the legislative and executive offices. He stated that SB 230 is based on the presumption that third party voters do not know what they are doing and are uninformed in their decisions. He said they make real choices. This bill allows third party candidates to have it both ways by applying leverage to the major parties. He said the "platform" of the parties is a process, such as; conventions through forums, candidate training, etc. He asked the Committee not to diminish the value of the major parties, because that is what will happen if SB 230 is passed into law.

Informational Testimony: None.

Questions from Committee Members and Responses:

SEN. COCCHIARELLA asked **SEN. BALLYEAT** a scenario, that if they were both libertarian against a democrat, and they both lost, what has been accomplished. **SEN. BALLYEAT** informed her that at least the libertarians gave the voters something to vote for with a candidate that has their views. He stated that this probably wouldn't solve all problems, but it would solve some of the problems by having more voters involved in the voting process. She asked **SEN. BALLYEAT** about **CHAIRWOMAN SQUIRES** situation the last time she ran for a legislative seat in the House her opposition was a Republican, a constitutionalist, a libertarian,

a reformed candidate, and a natural law candidate, how would this bill make it fair for any of those third party candidates. **SEN. BALLYEAT** responded that if **CHAIRWOMAN SQUIRES** had filed as one of these candidates, and she had received more votes in the primary based on the votes, she would then go on to the fall election as a candidate for that party in addition to being a candidate for the Democratic Party. He said that the votes in the primary are separated by party, and the votes are added together in the fall election, and who ever receives the most votes, would win the fall election. He said currently third parties have a negative stigma, and the best they can hope for is to be a spoiler. **SEN. COCCHIARELLA** informed the Committee that she feels this bill will disenfranchise more voters, and it is her belief there is some measure of deception with this process. **SEN. BALLYEAT** admitted that is a good argument.

SEN. COONEY asked **Bob Nichol** if someone wants to be a candidate for another party can they walk into the Secretary of State's Office and file. **Mr. Nichol** said no, because the candidate has to be nominated by that party's convention. **SEN. BALLYEAT** responded that this bill is focusing more toward legislative candidates rather than statewide candidates.

SEN. COONEY asked **Brad Martin** to respond. **Mr. Martin** stated that this bill opens a wide berth for mischief with a lot of creative thinking. He said that it also creates distrust. Why emulate New York when Montana has a higher voter turn out, and a better system than New York.

Closing by Sponsor:

SEN. BALLYEAT closed by responding to **Mr. Martin's** comment about "opening up a wide berth for mischief". He said that is what this legislative bill is all about, is to raise the specter of unintended consequence. He referred to fusion in one of the most populated states in the country, which is working to create vibrant elections, third party participation, and leaders. He asked the Committee to take a close look at SB 230, and urged a do pass.

EXHIBIT(sts20a02)

EXECUTIVE ACTION ON SB 206

{Tape: 2; Side: A; Approx. Time Counter: 17.1 - 25}

Motion: **SEN. LEWIS** moved that SB 206 DO PASS.

Discussion: SEN. LEWIS distributed and explained amendment SB020603.adb.

EXHIBIT(sts20a03)

Motion/Vote: SEN. GALLUS CALLED THE QUESTION ON THE AMENDMENT SB020603.adb. Motion carried unanimously by voice vote.

Motion/Vote: SEN. LEWIS moved that SB 203 DO PASS AS AMENDED. Motion carried unanimously by voice vote.

EXECUTIVE ACTION ON SB 109

{Tape: 2; Side: A; Approx. Time Counter: 25 - 26}

Motion/Vote: SEN. TROPILA moved that SB 109 DO PASS. Motion carried 9-2 by voice vote with SEN. GALLUS and SEN. LEWIS voting no.

EXECUTIVE ACTION ON SB 197

{Tape: 2; Side: B}

Motion: SEN. COCCHIARELLA moved that SB 197 DO PASS.

Discussion: SEN. LAIBLE stated his concern regarding the unfunded liability increase of \$1.2 million in the fiscal note. He asked how does unfunded liability disappear. Dave Bohyer, LSD, explained there are several ways that unfunded liability can be erased: 1) put additional money into the system, which is done by the Appropriation's Committee, 2) deposits on the part of the employer and/or employee, or 3) cut benefits.

SEN COCCHIARELLA commented that she spoke with Mike O'Connor about unfunded liability. She informed the Committee that unfunded liability doesn't mean that the state is in the hole. She stated this does cause a greater unfunded liability, but it doesn't break the system or mean that it will put the state in the hole.

Motion/vote: SEN. GALLUS moved that AMENDMENT SB0019701.ASH DO PASS. Motion carried unanimously.

Motion: SEN. GALLUS moved the CONCEPTUAL AMENDMENT DO PASS.

Discussion: Mike O'Connor distributed and explained the conceptual amendment. He said the bill as introduced on page 2, section 2, line 17, gives volunteer firemen additional years of service credit after 20 years of service regardless of age. He said this conceptual amendment clarifies the language, but doesn't change the bill.

EXHIBIT(sts20a04)

Vote: Motion carried unanimously by voice vote.

Motion/Vote: SEN. GALLUS moved that SB 197 DO PASS AS AMENDED. Motion carried 9-2 by voice vote with SEN. ESSMANN and SEN. BALYEAT voting no.

ADJOURNMENT

Adjournment: 5:00 P.M.

SEN. CAROLYN SQUIRES, Chairman

CLAUDIA JOHNSON, Secretary

CS/cj

Additional Exhibits:

EXHIBIT ([sts20aad0.PDF](#))